IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4391 OF 1991

Sahajivan Co-operative Housing Society Ltd., having its registered office at 13/A, Jawaharnagar, Kolhapur.) ..Petitioner.

Versus

1. The State of Maharashtra
2. The Collector of Kolhapur
3. Dy. Registrar, Co-operative Societies, Karveer Division, Kolhapur.) ..Respondents.

Mr. V.B.Rajure for the petitioner.
Mr. A.H. Palekar, AGP for the Respondents.

CORAM : S. A. BOBDE, J.
DATED : 10TH OCTOBER, 2005.

ORAL JUDGMENT -:

1. The petitioner society has challenged the order dated 20th March, 1991 by which the Collector Kolhapur has cancelled the certificate which says that the land is available for allotment.

2. Mr. Rajure, the learned counsel for the petitioner submitted that the impugned order is vitiated on the ground that it was passed without hearing the petitioner.

3. There is no dispute that the respondent No.2-Collector had not heard the petitioner. The right claimed by the petitioner for issuance of a certificate for availability of land flows from the order of the Collector dated 19th March, 1975, which is annexed at Exh. ‘B’ to the petition. By this order, the collector issued a land availability certificate without guarantying sanction of transaction of land. It was decided that the land would be allotted on receiving orders of the Government and upon fulfilment of the conditions by the society. It is clear that the land availability certificate was the basis on which the society claimed the land for allotment. However, without ascertaining from the society whether it is willing or not to fulfil the conditions for allotment of land by giving them opportunity, I am of view that the Collector could not have unilaterally revoked the earlier decision of grant of allotment certificate and that too without giving any reason.

4. In the circumstances, the Rule is made absolute. The respondent collector is directed to re-consider issuing a land allotment certificate in accordance with law.,

DT. 10.10.05 (S.A.BOBDE,J)

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